

IN THE UNITED STATES DISTRICT COURT DISTRICT OF NEBRASKA			Page 1	Page 3
LISSETTE LARIOS ROOBBAKHSH, as ) personal representative of the ) ESTATE OF FATIMA LISSETTE LARIOS ) and on behalf of next of kin, ) Case No. ) 8:17-cv-00031- and                          ) JFB-CRZ ) NELSON LARIOS, as next of kin ) ) Plaintiffs,            ) ) v.                      ) ) BOARD OF TRUSTEES OF THE NEBRASKA ) STATE COLLEGES        ) ) and                      ) ) TAKEN IN BEHALF CHADRON STATE COLLEGE,        ) OF THE ) PLAINTIFFS Defendants.         ) _____)				
DEPOSITION OF JOEL SMITH, taken at 10:20 a.m. on December 21, 2017, by Rachel McMenamin, CSR, RPR and General Notary Public in and for the State of Nebraska, at 1500 Woodmen Tower, 1700 Farnam Street, Omaha, Nebraska.				
1 APPEARANCES: 2 Mr. Martin D. Gould                          For Plaintiffs 3 Attorney at Law 4 ROMANUCCI & BLANDIN, LLC 5 321 North Clark Street, Suite 900 6 Chicago, IL 60654 7 Mr. Thomas E. Johnson                          For Defendants 8 Attorney at Law 9 BAIRD HOLM LAW FIRM 10 1500 Woodmen Tower 11 1700 Farnam Street 12 Omaha, NE 68102 13 ALSO PRESENT: Kimberly Brown 14 15 16 17 18 19 20 21 22 23 24 25	Page 2		1 JOEL SMITH 2 Of lawful age, being first 3 duly cautioned and solemnly 4 sworn as hereinafter certified, 5 was examined and testified as 6 follows: 7 DIRECT EXAMINATION 8 BY MR. GOULD: 9 Q Mr. Smith, can you please state and spell 10 your full name for the record? 11 A Yeah. Joel Smith. 12 Q That's S-m-i-t-h? 13 A S-m-i-t-h, yes. 14 Q That was an easy one. 15 A Yeah. 16 Q Have you ever taken a deposition before? 17 A I have not, no. 18 Q Okay. Before we start, I'm going to go 19 over some of the ground rules of the deposition so 20 we're on the same page, okay? 21 A Sure. 22 Q So as you can see, we have a court 23 reporter here. She's going to be transcribing 24 everything that you say. For her sake, please wait 25 until I finish asking my question before you give an answer. A Certainly.	Page 4

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# **EXHIBIT 10**

## DIRECT - SMITH (Gould)

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<p>1 Q Is that a yes?</p> <p>2 A Yes.</p> <p>3 Q And you sent this to Shelley Dunbar --</p> <p>4 strike that.</p> <p>5 You forwarded an email to Shelley</p> <p>6 Dunbar -- strike that.</p> <p>7 You sent an email to Shelley Dunbar with</p> <p>8 an attachment --</p> <p>9 A With an attachment with the -- with the</p> <p>10 description.</p> <p>11 Q Mr. Smith, please let me finish the</p> <p>12 question.</p> <p>13 A Yes.</p> <p>14 Q And I understand what you're --</p> <p>15 A No, no.</p> <p>16 Q -- saying, but we're going to make her</p> <p>17 life very difficult.</p> <p>18 A Fair enough.</p> <p>19 Q Okay. So on November 4, 2014, at</p> <p>20 8:15 a.m., you sent Shelley Dunbar an email with an</p> <p>21 attachment titled Title IX issue?</p> <p>22 A Yes.</p> <p>23 Q Okay. And the attachment included a</p> <p>24 document with a heading that said Chadron State</p> <p>25 College; correct?</p>	<p>1 A Yes, I did receive that.</p> <p>2 Q Are you aware of any other emails that you</p> <p>3 were copied on or that you sent or received</p> <p>4 pertaining to Fatima Larios?</p> <p>5 A No.</p> <p>6 Q Okay. We'll address these email -- emails</p> <p>7 a little bit later in the dep. I just want to go</p> <p>8 over some of your background information, your</p> <p>9 employment information.</p> <p>10 A Okay.</p> <p>11 Q And then we'll -- we'll start talking</p> <p>12 about some of the emails, okay?</p> <p>13 A Uh-huh.</p> <p>14 Q Is that a yes?</p> <p>15 A That's a yes.</p> <p>16 Q How old are you, sir?</p> <p>17 A I'm fifty-nine years old.</p> <p>18 Q Okay. Where did you attend high school?</p> <p>19 A Westminster High School in Westminster,</p> <p>20 Colorado.</p> <p>21 Q What year did you graduate?</p> <p>22 A 1977.</p> <p>23 Q Did you receive any secondary education?</p> <p>24 A I did.</p> <p>25 Q Where was that?</p>
<p>1 A Yes.</p> <p>2 Q Can you tell me, where did you get this</p> <p>3 document from?</p> <p>4 A I created the document, put it on the --</p> <p>5 on the letterhead.</p> <p>6 Q Okay. And then you -- you saved it on</p> <p>7 your computer, and you sent it to Shelley Dunbar?</p> <p>8 A That's correct.</p> <p>9 Q Did you also receive this email as part of</p> <p>10 Exhibit 28, it's CSC 173?</p> <p>11 A I did receive that email.</p> <p>12 Q Okay. And then you also received an email</p> <p>13 from Shelley Dunbar on November 6, 2014, at</p> <p>14 4:31 p.m., and we've Bates stamped it CSC 175; is</p> <p>15 that right?</p> <p>16 A Yeah. I was copied on that one.</p> <p>17 Q And then you were also copied on another</p> <p>18 email sent on Wednesday, November 5, 2014, at 2 p.m.</p> <p>19 sent by Shelley Dunbar; correct?</p> <p>20 MR. JOHNSON: What's the Bates number on</p> <p>21 that?</p> <p>22 MR. GOULD: CSC --</p> <p>23 MR. JOHNSON: 176.</p> <p>24 THE WITNESS: 176.</p> <p>25 MR. GOULD: -- 176.</p>	<p>1 A I got my bachelor's degree at Metropolitan</p> <p>2 State College of Denver.</p> <p>3 Q Did you graduate?</p> <p>4 A I did. And I have a master's degree from</p> <p>5 Regis University.</p> <p>6 Q Okay. What year did you graduate?</p> <p>7 A 19 -- that's a good question -- 83, I</p> <p>8 believe it was.</p> <p>9 Q And then you said you had a master's</p> <p>10 degree as well; correct?</p> <p>11 A Yeah. I have a master's degree from Regis</p> <p>12 University.</p> <p>13 Q What was your master's in?</p> <p>14 A It was in management.</p> <p>15 Q And what was your BA in?</p> <p>16 A History and marketing.</p> <p>17 Q Your master's was in -- strike that.</p> <p>18 Was it -- your master's was a</p> <p>19 management -- any specific subject or just</p> <p>20 management?</p> <p>21 A Quality management.</p> <p>22 Q So is that for businesses --</p> <p>23 A Yeah.</p> <p>24 Q Let me --</p> <p>25 A Yeah.</p>

3 (Pages 9 to 12)

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<p>1 Q Mr. Smith, I know you know the answer, 2 just let me finish asking the question, okay? 3 A Fair enough. 4 Q Can you explain to me what was -- what did 5 quality management pertain to? 6 A It's -- it was a term that was happening 7 in the '90s. Demming was the -- the guy who was one 8 of the leaders in it and trying to do 360 9 evaluations of things and better inclusion of 10 personnel and that kind of stuff and a different way 11 of managing things that was more inclusive. 12 Q So it was, like, a mix of human resources? 13 A No, it was -- it was at all levels of 14 stuff. It had levels of production, and it also 15 was, you know, how you gather information to make 16 processes better and get information and feedback 17 from people and -- 18 Q And what -- what year did you graduate 19 from your master's program? 20 A 1996. 21 Q And what year were you hired by Chadron 22 State College? 23 A 2013. 24 Q And what position were you hired for? 25 A Director of Athletics.</p>	<p>1 job at Chadron. 2 Q So you were the Commissioner of the Rocky 3 Mountain -- Mountain Athletic Conference from 2001 4 to 2013? 5 A That's correct. 6 Q Okay. What were your job responsibilities 7 as an Assistant Athletic Director at Metropolitan 8 State College? 9 A Oh, boy, I did a lot of things. So I -- I 10 was in charge of compliance, I was the fund-raiser, 11 I was the events manager, I scheduled transportation 12 and vehicles, maintained them. I guess that's 13 probably pretty much it. 14 Q Anything pertaining to, like, the safety 15 of students or -- strike that. 16 Were you in charge of anything in terms 17 of -- strike that. 18 When you said "compliance," is that 19 compliance with school -- 20 A It's -- 21 Q When you say "compliance," was that 22 compliance with school policies and procedures? 23 A NCAA compliance. 24 Q What about school policies and procedures 25 as they pertain to athletes?</p>
<p>1 Q Can you briefly go over the history of 2 your employment prior to 2013 -- 3 A Sure. 4 Q -- chronologically? 5 A Okay. 6 Q So you can just give me, you know, between 7 this year and that year I was a teacher at so and so 8 school, between that year and that year I worked at 9 ConAgra. 10 A Okay. Great. From 1985 until 1996, I was 11 the Assistant Athletic Director at Metropolitan 12 State College at Denver. 13 Q At Metropolitan? 14 A State College of Denver. 15 Q That makes it easier for me. 16 A Yeah. In 1996, I took the job as the 17 Director of Athletics at Fort Lewis College. 18 Q Is that in St. Louis, Missouri? 19 A No, actually, it's in Durango, Colorado. 20 And then in 2001, I became the Commissioner of the 21 Rocky Mountain Athletic Conference. 22 Q Hold on. Commissioner of -- 23 A The Rocky Mountain Athletic Conference. 24 Q Okay. 25 A And I served in that role until I took the</p>	<p>1 A Not necessarily, but I obviously had to 2 live under them, so -- 3 Q I'm sorry, what -- can you say that again? 4 You said "unnecessarily"? 5 A I -- I wasn't responsible to give that 6 information to student-athletes, but we all worked 7 under whatever rules were -- you know, were under 8 employment then. 9 Q So if you were made aware of a policy 10 violation, were you required to report to somebody? 11 MR. JOHNSON: Object, foundation. 12 A Yeah. 13 Q But it wasn't your responsibility to 14 investigate or discipline that student-athlete; 15 right? 16 A No. 17 Q What were your job responsibilities as the 18 Director of Athletics for St. Louis College? 19 A Fort Lewis. 20 Q Fort Lewis. 21 A I was overall in charge of 13 sports and 22 about 300 athletes. I did fund-raising, event 23 management, facilities stuff, and oversaw the staff. 24 Q When you say you were in charge of 300 25 athletes, were you also in charge, in part, for</p>
	4 (Pages 13 to 16)

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<p>1 going to mark as 30.</p> <p>2 (Deposition Exhibit Number 30 was marked</p> <p>3 for identification.)</p> <p>4 MR. GOULD: I know we've already marked</p> <p>5 Policy 3020, but this one's got a date on it, so I'm</p> <p>6 going to use this one right now.</p> <p>7 MR. JOHNSON: Do you have a copy?</p> <p>8 MR. GOULD: Yeah, I do.</p> <p>9 BY MR. GOULD:</p> <p>10 Q Mr. Smith, is that the Policy 3020 that</p> <p>11 you were provided as an athletic director at Chadron</p> <p>12 State College?</p> <p>13 A I believe so.</p> <p>14 Q Can you just read the -- the definition</p> <p>15 section to yourself?</p> <p>16 A About dating violence?</p> <p>17 Q Yeah.</p> <p>18 A Do you want me to read it out loud?</p> <p>19 Q No, no, just to yourself.</p> <p>20 A Okay.</p> <p>21 Q Title -- strike that.</p> <p>22 Is it your understanding that -- strike</p> <p>23 that.</p> <p>24 Back in November 2014, was it your</p> <p>25 understanding that domestic violence and dating</p>	<p>1 A Yes.</p> <p>2 Q Do you know who Fatima Larios is?</p> <p>3 A I am aware of who she is now. At the</p> <p>4 time, I did not.</p> <p>5 Q On November 3, 2014, were you made -- made</p> <p>6 aware that Fatima Larios was a softball player at</p> <p>7 Chadron State College?</p> <p>8 A Yes.</p> <p>9 Q Okay. And were you also made aware that</p> <p>10 the person suspected of physically or</p> <p>11 psychologically abusing her was a football player at</p> <p>12 Chadron State College?</p> <p>13 MR. JOHNSON: Object to the form of the</p> <p>14 question. You may answer.</p> <p>15 A No, because the discussion was only</p> <p>16 that -- that some of the kids had seen some physical</p> <p>17 stuff. They did say that she was dating a football</p> <p>18 player, but they -- all they said was that they had</p> <p>19 seen some funny behavior on her part.</p> <p>20 Q Can you tell me, what did Rob Stack tell</p> <p>21 you on November 3, 2014, regarding his concerns</p> <p>22 about Fatima Larios' safety and well-being?</p> <p>23 MR. JOHNSON: Object to the form of the</p> <p>24 question, foundation.</p> <p>25 A And I don't recall the conversation,</p>
<p style="text-align: center;">Page 26</p> <p>1 violence was covered under Title IX?</p> <p>2 A It was my understanding that if I knew of</p> <p>3 something like that, I would report it to the</p> <p>4 Title IX Director.</p> <p>5 Q And -- and -- strike that.</p> <p>6 On November 3, 2014, Coach Rob Stack</p> <p>7 reached out to you regarding concerns he had about</p> <p>8 one of his softball player's well-being and safety;</p> <p>9 right?</p> <p>10 A Uh-huh.</p> <p>11 MR. JOHNSON: Object to the form of the</p> <p>12 question.</p> <p>13 Q Is that a yes?</p> <p>14 A That's a yes.</p> <p>15 Q Okay. Was -- did Rob Stack reach out to</p> <p>16 you in person or through -- via cell phone or email?</p> <p>17 A He came to my office.</p> <p>18 Q Okay. Did Coach Stack come to your office</p> <p>19 with Assistant coach Aryn Grywusiewicz?</p> <p>20 A No.</p> <p>21 Q Was November 3, 2014, the first time you</p> <p>22 had heard about potential dating violence or</p> <p>23 domestic violence situation involving Fatima Larios</p> <p>24 and Brandon Finona?</p> <p>25 MR. JOHNSON: Object to the form.</p>	<p style="text-align: center;">Page 28</p> <p>1 except for that there was -- that -- that two of the</p> <p>2 players had come to Aryn and -- and said that they</p> <p>3 were concerned about her, that she was acting</p> <p>4 strangely in practices, and he advised me how we</p> <p>5 should handle that, and I advised him that we should</p> <p>6 send it to the Title IX person and let them deal</p> <p>7 with it.</p> <p>8 Q So the best -- to the best of your</p> <p>9 recollection, Coach Stack just told you that two of</p> <p>10 the players had told him and the assistant coach</p> <p>11 that Fatima Larios was acting strangely?</p> <p>12 A I believe the way he put it was that</p> <p>13 they -- the two players told Aryn and then Aryn</p> <p>14 brought it up to Rob.</p> <p>15 Q That Fatima Larios was acting strangely?</p> <p>16 A Yes.</p> <p>17 Q Did -- did you ever meet with Aryn</p> <p>18 Grywusiewicz?</p> <p>19 A No.</p> <p>20 Q Was the only face-to-face meeting you had</p> <p>21 with Rob Stack on November 3, 2014, in regards to</p> <p>22 the issue with Fatima Larios and -- strike that.</p> <p>23 Did you end up reaching out to the</p> <p>24 Title IX Coordinator to handle the situation?</p> <p>25 A I went over to her office and discussed it</p>

7 (Pages 25 to 28)

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<p>1 with her, and we discussed having -- putting      2 together the letter that we -- that I sent the next      3 day.</p> <p>4 Q So at 7:50 a.m. on November 3, 2014, Rob      5 Stack approached you about his concerns about Fatima      6 Larios' safety and well-being; right?</p> <p>7 A Uh-huh.</p> <p>8 MR. JOHNSON: Object to the form.</p> <p>9 Q Is that a yes?</p> <p>10 A Yes.</p> <p>11 Q Later on that same morning, you went      12 directly to Shelley Dunbar to discuss the issue;      13 correct?</p> <p>14 A I don't remember the -- the time or the      15 day, but that day I did, I went and talked to her      16 with it.</p> <p>17 Q And if your note says I took this      18 information to Shelley Dunbar on the morning of      19 November 3?</p> <p>20 A Uh-huh, so that may have been that I did      21 it right after that happened, then, yeah.</p> <p>22 Q There would be no reason to be that you --      23 you didn't take it -- take that information to      24 Shelley Dunbar on the morning of November 3; right?</p> <p>25 A That's correct.</p>	<p>1 your -- strike that.</p> <p>2 As an athletic director at Chadron State      3 College, was it your responsibility to investigate      4 potential Title IX violations?</p> <p>5 A No.</p> <p>6 Q You never had any training on how to      7 investigate Title IX investigations; correct?</p> <p>8 A No.</p> <p>9 Q You didn't know what was required of you      10 in terms of an investigation into a Title IX      11 investigation?</p> <p>12 A No.</p> <p>13 Q Strike that.</p> <p>14 The reason that you titled your attachment      15 to Shelley Dunbar on November 3, 2014, as Title IX      16 issue is because you believed based off of what you      17 had heard from Coach Stack that what was going on      18 with Fatima Larios involved a potential Title IX      19 violation; correct?</p> <p>20 A As -- in my role of reporting some -- when      21 there's information, I felt that I had to report      22 that information to him. I don't -- I didn't      23 investigate to find out whether that was -- whether      24 it was a violation or not.</p> <p>25 Q Sure. And that's not your role --</p>
<p style="text-align: center;">Page 30</p> <p>1 Q Okay. Now, you -- did you send this email      2 to Shelley Dunbar after you had already spoken to      3 her on November 3 or before you had spoken to her on      4 November 3?</p> <p>5 A After I spoke to her.</p> <p>6 Q So the morning of November 3, Shelley      7 Dunbar was already made aware of this potential      8 Title IX violation involving Fatima Larios; correct?</p> <p>9 A Yes, I -- based on what I noted there,      10 yes.</p> <p>11 Q Okay. Is there a reason why you, then,      12 also typed up this memo and sent it to Shelley      13 Dunbar after she had already been made aware of the      14 situation?</p> <p>15 A She -- she asked to have a document      16 that --</p> <p>17 Q Okay.</p> <p>18 A -- that we had had a conversation.</p> <p>19 Q And did you send this memo to Shelley      20 Dunbar in part because it was your understanding      21 that it was Shelley Dunbar's responsibility to      22 investigate and respond to this potential Title IX      23 violation?</p> <p>24 A That's correct.</p> <p>25 Q So as an athletic director, it wasn't</p>	<p style="text-align: center;">Page 32</p> <p>1 A No.</p> <p>2 Q -- as -- that's not your role as an      3 athletic director; correct?</p> <p>4 A That's correct.</p> <p>5 Q You're not responsible for determining      6 whether or not there was a Title IX violation or      7 there wasn't; right?</p> <p>8 A That's correct.</p> <p>9 Q And the reason that you titled the      10 attachment Title IX issue was because, from your      11 understanding, the issue involving Fatima Larios      12 involved dating violence or domestic violence;      13 right?</p> <p>14 MR. JOHNSON: Object to the form.</p> <p>15 A I'm not aware why I -- I did that. I      16 think I probably just did it for simplicity knowing      17 it was going to Shelley, so -- and to keep it in my      18 filing system under it, so --</p> <p>19 Q How did you know that it was going to      20 be -- that -- strike that.</p> <p>21 What types of offenses does Shelley -- is      22 Shelley Dunbar responsible for investigating as      23 Title IX Coordinator?</p> <p>24 MR. JOHNSON: Object, foundation.</p> <p>25 A You know, I don't -- I don't know.</p>

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<p>1 A No.</p> <p>2 Q Was -- were you sending -- were you 3 sending an email to Shelley Dunbar because you 4 believed that Fatima Larios and Brandon Finona 5 needed counseling on their dating issues?</p> <p>6 MR. JOHNSON: Object to form.</p> <p>7 A I did not have enough information to know 8 that one way or the other, so no.</p> <p>9 Q Did you -- when you spoke with Coach 10 Stack, did he say anything about the fact that he 11 believed or other players believed Fatima was 12 getting beaten by Brandon Finona?</p> <p>13 A No.</p> <p>14 MR. JOHNSON: Object, foundation.</p> <p>15 Q Did Coach Stack ever tell you that he or 16 the other coaches or players believed that Fatima 17 Larios was being psychologically abused by Brandon 18 Finona?</p> <p>19 MR. JOHNSON: Object, foundation.</p> <p>20 A No.</p> <p>21 Q So all you were made aware of was that 22 there was -- was that -- strike that.</p> <p>23 Just so I'm clear here --</p> <p>24 A Uh-huh.</p> <p>25 Q -- the only thing you were made aware of</p>	<p>1 safety and well-being; correct?</p> <p>2 A No.</p> <p>3 MR. JOHNSON: Object, form and foundation. 4 Please take a break and let me make my objections.</p> <p>5 THE WITNESS: Sure.</p> <p>6 MR. JOHNSON: Thanks. Go ahead.</p> <p>7 A I was not aware of that, that they -- that 8 they had made that decision.</p> <p>9 Q So you said that they took -- Coach Stack 10 took his concerns to you about -- or Coach Stack 11 approached you regarding his concerns about Fatima 12 Larios; right?</p> <p>13 A Uh-huh.</p> <p>14 MR. JOHNSON: Object to the form of the 15 question.</p> <p>16 A Yes.</p> <p>17 Q Okay. What concerns are you specifically 18 referring to?</p> <p>19 MR. JOHNSON: Object, foundation.</p> <p>20 A The -- the fact that she was acting 21 strangely and that she was covering herself and that 22 the kids were concerned about her.</p> <p>23 Q And you never asked the follow-up question 24 as to what specifically were the other players or 25 coaches concerned about?</p>
<p style="text-align: center;">Page 38</p> <p>1 by Coach Stack was, one, Fatima was acting 2 strangely, and two, she was wearing long-sleeved 3 shirts when she likely should not have been?</p> <p>4 MR. JOHNSON: Object, foundation.</p> <p>5 Q Is that correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. Did you ever ask Coach Stack what 8 he meant when he said she was acting strangely?</p> <p>9 A No.</p> <p>10 Q Okay. Were you not interested -- strike 11 that.</p> <p>12 What did you under -- what did you believe 13 he meant when he said Fatima was acting strangely?</p> <p>14 A I -- I --</p> <p>15 MR. JOHNSON: Foundation.</p> <p>16 A I wasn't aware. I -- as he brought the 17 information to me from Aryn, there was a -- there 18 was a tenor that there was a concern about what was 19 happening with Fatima. And when that happened, the 20 first thing that I thought of was to -- to give it 21 to the Title IX Coordinator so they can investigate 22 it.</p> <p>23 Q So on November 3, 2014, it became clear to 24 you that Coach Stack and Coach Aryn Grywusiewicz 25 were concerned for Fatima Larios and Fatima Larios'</p>	<p style="text-align: center;">Page 40</p> <p>1 A No.</p> <p>2 Q Okay. Was it because you -- you didn't 3 care at that point in time?</p> <p>4 A It had nothing to do with whether I cared 5 or not. It had everything to do that I felt like at 6 that time it was time to give that to the Title IX 7 Coordinator --</p> <p>8 Q Sure.</p> <p>9 A -- and let her investigate what was going 10 on so it's fair for both sides.</p> <p>11 Q So on November 3, 2014, did you ever ask 12 Rob Stack what -- what -- what he and Coach Aryn 13 Grywusiewicz believed Fatima was doing when she was 14 wearing long-sleeved shirts?</p> <p>15 A No.</p> <p>16 Q Did you ever ask -- did he ever mention to 17 you that they saw bruises unrelated to softball on 18 Fatima's body?</p> <p>19 A No.</p> <p>20 Q Okay. And on November 3, 2014, it's your 21 testimony that Rob Stack never mentioned to you that 22 he, the players on his team or other coaches 23 believed Fatima Larios was being beaten or struck by 24 another student-athlete on campus; correct?</p> <p>25 MR. JOHNSON: Object, foundation.</p>

10 (Pages 37 to 40)

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Page 49	Page 51
<p>1       Q   And if they're not passing their classes, 2    who does she report that to? 3       A   Both me and to the -- actually, she 4    reports it to a compliance team of faculty members 5    that we have and then to the head coach. 6       Q   Okay. And if a student -- is there -- 7    strike that. 8       What is the requisite GPA that a 9    student-athlete needs to be able to participate in 10   sports? 11      A   At that time it was 2.0 and they had to 12    pass a minimum of 6 credit hours. 13      Q   And if they don't get a 2.0, what happens? 14      A   Then they would be ineligible for the next 15    semester. In this case where the sport is in the 16    spring, then she would have lost her eligibility. 17      Q   And who has the conversation with the 18    student to explain to them that they can't 19    participate in athletics until their GPA goes up? 20      A   Usually the compliance person along with 21    the coach. 22      Q   Are you involved in that conversation? 23      A   No, not necessarily. 24      Q   Do you ever look into why a student's 25    grade may be falling?</p>	<p>1       questions -- strike that. 2       If you have a student -- student-athlete 3    who's -- isn't meeting the requisite GPA passing of 4    classes, does the committee ever look into whether 5    there's personnel problems that are affecting his 6    ability to focus or do work? 7       A   No. I would say that probably is the 8    coach -- coach might have some knowledge base about 9    that because they would be the first direct contact 10   point with a student-athlete. 11      Q   So do you expect coaches to be familiar 12    with students' personal lives if there's problems 13    that are affecting their ability to do work at 14    school? 15      A   Yeah, I think that their coaches have a 16    vested interest in making sure that their kids are 17    being successful in academics. So yeah, I think our 18    coaches would want to know what the academics are of 19    a student-athlete. 20      MR. JOHNSON: I need to take a break when 21    you get to a good point. 22      Q   I'm sorry, was the only conversation you 23    had in person with anybody about the Fatima Larios 24    potential Title IX violation in November 2014 the 25    conversation you had with Shelley Dunbar in person?</p>
<p>1       A   Yeah, we talk about it as a whole along 2    with our compliance team, and we don't have a ton of 3    those issues, but the issues that we have, we do 4    talk about. 5       Q   When you say "we talk about it," is there, 6    like, a committee of people that talk about why a 7    student's grades are falling? 8       A   We have a compliance team of people from 9    the registrar's office, the financial aid office, 10   faculty members, our faculty athletic rep, and 11   that's part of our dialogue -- ongoing dialogue is 12   to talk about challenges that kids have with 13   academics. 14      Q   And are you involved in those 15   conversations? 16      A   I am. 17      Q   Have you ever had a -- have you ever had 18   meetings where you were asking questions as to why a 19   student's grades were falling? 20      A   Only in the general sense is if there's a 21   concern about specific classes that they're taking 22   or majors that they're having, then I imagine we've 23   had a dialogue about that, but specifically to any 24   particular athlete, not with that committee, no. 25      Q   Did you ever -- do you ever ask</p>	<p>1       MR. JOHNSON: Object, form, foundation. 2       A   Yes. 3       Q   Okay. Every other communication you had 4    was simply an email that you were cc'd on; right? 5       A   Uh-huh. 6       Q   Is that a yes? 7       A   Yes. 8       Q   You never spoke with Shelley Dunbar in 9    person after you had reported Coach Stack's concerns 10   on November 3, 2014; right? 11      A   I don't recall whether we did or not. We 12   may have, but I don't recall it. 13      Q   And then did you -- you never followed up 14   with Coach Stack or Assistant Coach Aryn 15   Grywusiewicz after November 3, 2014, to see how 16   Fatima Larios was doing; right? 17      A   I -- I had -- in my general meetings with 18   Rob, I had discussions about how she was doing, 19   especially after she responded that she didn't want 20   any help from Title IX, and I encouraged Rob to 21   continue to monitor her. 22      Q   Okay. After a conversation with Rob Stack 23   on November 3, 2014, did you know one way or the 24   other whether the players' concerns were that Fatima 25   Larios was raped?</p>
	13 (Pages 49 to 52)

## DIRECT - SMITH (Gould)

Page 53	Page 55
<p>1 A No.</p> <p>2 Q You didn't know -- so as far as you know,</p> <p>3 she could have been raped, or she -- or she wasn't</p> <p>4 raped?</p> <p>5 A I have no idea.</p> <p>6 MR. JOHNSON: Object, form of the</p> <p>7 question, foundation. You may answer.</p> <p>8 Q And you never asked any questions as to</p> <p>9 whether the concerns involved a sexual assault or a</p> <p>10 sexual rape; right?</p> <p>11 A I was unaware of any of that.</p> <p>12 Q And you never asked Rob Stack those</p> <p>13 questions; correct?</p> <p>14 A No.</p> <p>15 Q Okay. Did you ever ask Rob Stack whether</p> <p>16 there was any problems going on with Fatima's family</p> <p>17 such as a recent death in the family?</p> <p>18 A No.</p> <p>19 Q Did you ever ask Rob Stack whether he was</p> <p>20 aware of any -- anything that was affecting Fatima</p> <p>21 Larios' personal life that could be causing her to</p> <p>22 act strangely?</p> <p>23 A No.</p> <p>24 Q Is it fair to say that Rob Stack's --</p> <p>25 strike that.</p>	<p>1 Q So as far as you knew after your meeting</p> <p>2 with Rob Stack -- strike that.</p> <p>3 Is it fair to say that all you knew after</p> <p>4 your meeting with Rob Stack was simply that Fatima</p> <p>5 Larios had a boyfriend; right?</p> <p>6 MR. JOHNSON: Object, form of the</p> <p>7 question.</p> <p>8 A No. I knew that there were concerns about</p> <p>9 her behavior and -- and what she was covering</p> <p>10 herself with and that a couple players had some</p> <p>11 concerns about her.</p> <p>12 Q Okay.</p> <p>13 A I knew that.</p> <p>14 Q Specific to the boyfriend, when you heard</p> <p>15 that Fatima Larios had a boyfriend, you didn't know</p> <p>16 whether that boyfriend was having a positive or a</p> <p>17 negative impact on Fatima's life; right?</p> <p>18 A No, I did not know.</p> <p>19 Q Okay. Did you ever ask Rob Stack whether</p> <p>20 the boyfriend was a student at Chadron State</p> <p>21 College?</p> <p>22 A I don't recall.</p> <p>23 Q Did you ever --</p> <p>24 A I think -- I think they told me he was a</p> <p>25 football player, so I made the assumption he was a</p>
<p style="text-align: center;">Page 54</p> <p>1 Is it fair to say when Rob Stack spoke to</p> <p>2 you, he spoke in generalities?</p> <p>3 MR. JOHNSON: Object to the form of the</p> <p>4 question and foundation.</p> <p>5 A I -- generalities, I'm not sure if I</p> <p>6 understand the -- the concept that you're trying to</p> <p>7 get to.</p> <p>8 Q Sure. And I guess what I'm getting at is</p> <p>9 it seems like there was -- you didn't -- when you</p> <p>10 left that meeting with Rob Stack, you didn't -- you</p> <p>11 didn't fully understand what the specific concerns</p> <p>12 were or what the specific allegations were; right?</p> <p>13 A That's correct.</p> <p>14 Q Okay. The only thing you really knew is</p> <p>15 that the coaches had some sort of concern?</p> <p>16 A Concern.</p> <p>17 Q You didn't know whether it involved</p> <p>18 academics, sexual abuse, or physical abuse; right?</p> <p>19 A No.</p> <p>20 Q You didn't know one way or the other?</p> <p>21 A No. I think there was a -- in the</p> <p>22 dialogue, there was a discussion about the boyfriend</p> <p>23 because the boyfriend came up somehow, but I don't</p> <p>24 know -- I think that was just that she was dating a</p> <p>25 football player.</p>	<p style="text-align: center;">Page 56</p> <p>1 student.</p> <p>2 Q And you didn't know whether there was</p> <p>3 concerns that the football player boyfriend was</p> <p>4 harming Fatima?</p> <p>5 A None.</p> <p>6 MR. JOHNSON: Okay. We're going to take a</p> <p>7 break. I've got to go to the restroom.</p> <p>8 (A short recess was taken.)</p> <p>9 BY MR. GOULD:</p> <p>10 Q Mr. Smith, it's your testimony today that</p> <p>11 after your meeting with Coach Stack on November 3,</p> <p>12 2014, you didn't know whether Fatima Larios was</p> <p>13 suspected of acting strangely because she had a</p> <p>14 death in the family or because another student was</p> <p>15 physically or psychologically abusing her; is that</p> <p>16 right?</p> <p>17 A I didn't have any idea that that was</p> <p>18 happening except for that there was something about</p> <p>19 the boyfriend and the kids were concerned about her.</p> <p>20 Q Okay. But you didn't know whether it</p> <p>21 could -- whether it was something that happened in</p> <p>22 her family or whether it was from another student;</p> <p>23 right?</p> <p>24 A I don't know.</p> <p>25 Q And you never asked any questions to Rob</p>

14 (Pages 53 to 56)

## DIRECT - SMITH (Gould)

Page 57	Page 59
<p>1 Stack as to what he thought was going on with Fatima 2 Larios; correct?</p> <p>3 A No.</p> <p>4 Q Can you tell me why you didn't ask any 5 follow-up questions to Rob Stack?</p> <p>6 A I didn't think it was my duty to do that. 7 That's the Title IX Coordinator's job. Rob was also 8 giving me second-hand information. He didn't know 9 the initial information. It was coming from Aryn, 10 and so I felt like the best thing to do was get it 11 in the hands of the Title IX Coordinator so they get 12 the right information.</p> <p>13 Q And you -- at no point in time prior to 14 January 31, 2015, did you ever ask to interview any 15 of the students -- student-athletes that were 16 reporting their concerns about Fatima Larios; right?</p> <p>17 A No.</p> <p>18 Q And at no point in time did you personally 19 reach out to Aryn Grywusiewicz to find out what she 20 had known about potential problems or safety issues 21 or concerns they had with Fatima Larios; right?</p> <p>22 A Not that I recall.</p> <p>23 Q Did you ever reach out to anyone from the 24 dorms or from the -- the Housing Department --</p> <p>25 A No.</p>	<p>1 Q You were aware of that?</p> <p>2 A I -- I didn't know that they did it on 3 that. I know they do that.</p> <p>4 Q Okay. What was your understanding as to 5 what -- as to why RAs were filling out observation 6 notes?</p> <p>7 A I have no idea.</p> <p>8 MR. JOHNSON: Object, foundation.</p> <p>9 A I have no idea that they did it. I was 10 not made privy that they did it about Larios and 11 Brandon.</p> <p>12 Q Were you ever made aware that they -- that 13 the RAs -- strike that.</p> <p>14 But you were made aware that RAs do fill 15 out observation notes?</p> <p>16 A I know that they do in general, yes.</p> <p>17 Q How do you know that?</p> <p>18 A We just over the years have talked about 19 how they do their process.</p> <p>20 Q Did you ever -- did you ever know as to 21 why observation notes were being filled out by 22 Larios?</p> <p>23 A No.</p> <p>24 Q Did you --</p> <p>25 A I didn't know that they were.</p>
<p style="text-align: center;">Page 58</p> <p>1 Q Prior to -- at any point in time did you 2 ever reach out to anyone from the dorms to find out 3 how Fatima was doing in the dorms?</p> <p>4 A No.</p> <p>5 Q You never reached out to any of Fatima's 6 or her boyfriend's RA's; right?</p> <p>7 A No.</p> <p>8 Q Never reached out to any of Fatima's -- 9 her -- strike that.</p> <p>10 Did you even know who her boyfriend was at 11 the time?</p> <p>12 A No. I mean, I knew the name because I had 13 written it down, so they told me his name, but I 14 didn't know him personally or her.</p> <p>15 Q Does the name Brandon Finona sound 16 familiar?</p> <p>17 A That's correct.</p> <p>18 Q Did you ever reach out to Brandon Finona 19 or Fatima Larios' RAs to find out how they were 20 doing in the dorms?</p> <p>21 A No.</p> <p>22 Q Did you know that the RAs filled out 23 something called observation notes at the beginning 24 of every semester?</p> <p>25 A Uh-huh.</p>	<p style="text-align: center;">Page 60</p> <p>1 Q I'm sorry, and I -- maybe there's a little 2 confusion here, but you said you were aware that RAs 3 do fill out observation notes?</p> <p>4 A Uh-huh.</p> <p>5 THE REPORTER: Yes?</p> <p>6 Q Is that a yes?</p> <p>7 A Yes.</p> <p>8 Q Okay. Were you -- were you aware that 9 they filled out observation notes on all the 10 students -- strike that -- the RAs fill out 11 observation notes on all the students on their 12 floors?</p> <p>13 A I'm not sure of how it's structured, but I 14 know they do it.</p> <p>15 Q Okay. So -- but you didn't know whether 16 or not the RAs actually filled out observation notes 17 for Fatima Larios or Brandon Finona; right?</p> <p>18 A I did not know they did -- I was not aware 19 that they had filled out any for either one of them.</p> <p>20 Q Did you assume that they did because -- 21 because the RAs were filling out observation notes 22 on all the students in the dorms?</p> <p>23 A No.</p> <p>24 Q Did you ever ask -- did you ever tell 25 Coach Stack or Shelley Dunbar to reach out to any of</p>

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Page 61	Page 63
<p>1       the housing staff in the dorms to find out how 2       Fatima was doing in the dorms? 3       A   No. 4       Q   Did you ever reach out to Fatima 5       Larios' -- strike that. 6           Did you ever reach out to anybody in the 7       dorms to find out how -- strike that. 8           Did you ever reach out to anybody in the 9       dorms to find out whether Fatima Larios was having 10      any problems with other students? 11      A   No. 12      Q   Did you ever reach out to anybody in the 13      dorms to ask them to monitor Fatima Larios' 14      well-being? 15      A   No. 16      Q   Did you ever reach out to anyone in the 17      dorms to report back to you on Fatima's well-being 18      periodically? 19      A   No. 20      Q   Did you ever reach out to anyone in the 21      dorms to warn them that Fatima Larios was reported 22      to having potential Title IX -- strike that. 23           Did you ever reach out to anyone in the 24      dorms, whether it was a resident director, an AR, or 25      the housing director to warn them that there were</p>	<p>1       there was an issue involving Fatima Larios that 2       didn't involve Title IX, is there any reason why you 3       would send the Title IX Coordinator an email about 4       those concerns? 5       A   No. I would send the email to the 6       Title IX Coordinator if I was concerned about 7       something that I thought might -- she needs to 8       investigate. That's what I did 9       Q   But you thought something that might 10      involve a Title IX violation; right? 11      A   It might, yeah. 12      Q   Okay. Or do you just send Shelley Dunbar 13      emails to handle work that you don't want to do? 14      A   No. 15      Q   Okay. So specific to potential Title IX 16      violations? 17      A   It doesn't have anything to do with work I 18      have to do. It's not my responsibility to 19      investigate Title IX things. 20      Q   And I just want to be clear here. You 21      thought that Fatima Larios may have been the victim 22      of a Title IX violation; correct? 23      A   I thought that there were -- there were 24      things that were -- that I needed to give to her to 25      look into. I didn't make any value judgments nor</p>
<p style="text-align: center;">Page 62</p> <p>1       reports that Fatima Larios was the victim of a 2       Title IX violation? 3       A   No, because I wasn't aware that she was a 4       victim of a Title IX violation. I gave the 5       information to the Title IX Coordinator. 6       Q   Okay. Well, but you gave the information 7       to the Title IX Coordinator because you suspected 8       that something happened with Fatima Larios that -- 9       strike that. 10      You gave the information to the Title IX 11      Coordinator because you believed that whatever the 12      concerns were about Fatima Larios that there was a 13      suspected violation of Title IX; right? 14      MR. JOHNSON: Object to form of the 15      question. Go ahead. 16      A   Not necessarily. I just knew that it was 17      an issue that she would have to review to see what 18      was going on. I was aware that there was an issue 19      that needed to be reported under the mandatory 20      reporting requirement. 21      Q   But the Title IX Coordinator is only 22      responsible for investigating potential Title IX 23      violations; right? 24      A   Correct. 25      Q   Okay. So if -- if there was an -- if</p>	<p style="text-align: center;">Page 64</p> <p>1       did I ask any questions to know. 2       Q   Something that was said to you suggested 3       that you should send -- strike that. 4       Something that was said to you by Coach 5       Stack made you believe that it could be a Title IX 6       issue and there could be a Title IX violation; right? 7       A   Perhaps, yeah. 8       Q   Okay. Or was it just something that 9       was -- that was information that was provided to you 10      and you didn't want to deal with it so you thought 11      Shelley Dunbar might want to handle it? 12      A   No, that's not true. 13      Q   Okay. 14      A   I thought that the -- there were issues 15      about the way that she was behaving, that she was 16      covering up her arms and that the kids had concerns 17      about her. 18      Q   Okay. 19      A   To me, that was -- those were things that 20      might do that. And they mentioned the boyfriend, so 21      I think toward that point, that's where it needed to 22      be. 23      Q   And what I'm -- and when you left the 24      meeting with Coach Stack, did you have any opinion 25      as to whether Fatima Larios was wearing long-sleeved</p>

16 (Pages 61 to 64)

## DIRECT - SMITH (Gould)

Page 105	Page 107
<p>1 Q As an athletic director, if you were made      2 aware that a -- one of your student-athletes was the      3 victim or potential victim of a criminal offense,      4 would you report that to the Chadron Police      5 Department or campus security?</p> <p>6 A Yeah, it would be --</p> <p>7 MR. JOHNSON: Object, foundation.</p> <p>8 A I would be obligated to if it was a      9 criminal offense.</p> <p>10 Q So if one of your student-athletes --      11 strike that.</p> <p>12 If you suspected that one of your      13 student-athletes was the victim of a criminal      14 offense, you would have reported it to the Chadron      15 Police Department or campus security; correct?</p> <p>16 MR. JOHNSON: Object, foundation.</p> <p>17 A Yeah, I'm not aware of any of those      18 situations happening.</p> <p>19 Q But if -- if you are, I'm asking a      20 hypothetical here. If you were aware -- strike      21 that.</p> <p>22 As an athletic director, if you were made      23 aware that one of your student-athletes may have      24 been a victim of a criminal offense, crime in      25 Nebraska, would you have reported that to Chadron</p>	<p>1 athletic director, have you ever reached out to a      2 Title IX Coordinator at the university regarding a      3 potential Title IX violation other than the Fatima      4 Larios case?</p> <p>5 A Yeah, we did it with the wrestling hazing.</p> <p>6 Q Was that the only other incident?</p> <p>7 A That I'm aware of, yes.</p> <p>8 Q Do you know who was in charge of      9 investigating that incident with the wrestlers?</p> <p>10 A Ted Tewahade who's our current Title IX      11 Coordinator.</p> <p>12 Q Did you have any role in the investigation      13 into Fatima's death?</p> <p>14 A No.</p> <p>15 Q Did you ever speak to Coach Stack, Aryn      16 Grywusiewicz, Shelley Dunbar, Sherri Simons, or Jon      17 Hansen about what you guys believed happened to      18 Fatima Larios?</p> <p>19 MR. JOHNSON: I'm going to object to the      20 form of the question.</p> <p>21 A Not that I recall.</p> <p>22 Q Do you recall speaking to anyone from the      23 Chadron -- strike that.</p> <p>24 Do you recall speaking to any employees      25 from Chadron State College about what you believe</p>
<p>1 Police Department or campus security?</p> <p>2 MR. JOHNSON: Object, foundation.</p> <p>3 A Yes, I would have if I thought it was a      4 criminal offense.</p> <p>5 Q Do you know who Sherri Simons is?</p> <p>6 A I do.</p> <p>7 Q Who was Sherri Simons?</p> <p>8 A She's the Director of Housing. She was      9 the Director of Housing.</p> <p>10 Q Okay. Was Sherri Simons the Title IX      11 Director starting in January of 2015?</p> <p>12 A At some point she took over that role,      13 yes.</p> <p>14 Q Had you ever forwarded any -- strike that.</p> <p>15 Have you ever reached out to Sherri Simons      16 about potential Title IX violations that you became      17 aware of?</p> <p>18 A No.</p> <p>19 Q Prior to January -- strike that.</p> <p>20 How many -- on how many occasions have you      21 reached out to -- strike that.</p> <p>22 You were the athletic director at Chadron      23 State College for how long?</p> <p>24 A In my fifth year now, so since 2013.</p> <p>25 Q Okay. So in the five years that you were</p>	<p>1 happened to Fatima Larios?</p> <p>2 A Not that I --</p> <p>3 MR. JOHNSON: Object to the form.</p> <p>4 A Not that I recall.</p> <p>5 Q Prior to this deposition -- strike that.</p> <p>6 I don't want to know what you spoke to      7 your lawyer about, but I want to know on how many      8 occasions have you met with your lawyers in      9 preparation for this deposition?</p> <p>10 MR. JOHNSON: I'm going to object to that      11 for purposes of preventing a waiver. We've had this      12 discussion before. I'll let the witness go ahead      13 and answer as long as there's an understanding that      14 I'm not waiving my objection on that basis.</p> <p>15 A We met yesterday.</p> <p>16 Q How long was that meeting for?</p> <p>17 A Two hours.</p> <p>18 Q And was that the only other time you've      19 met -- strike that.</p> <p>20 Was that the only time you had met with      21 your counsel in preparation for this deposition?</p> <p>22 A Yeah, in preparation for this deposition.</p> <p>23 I met with George when he was up on campus, but we      24 didn't really get -- we weren't at that point where      25 we were talking about depositions.</p>

27 (Pages 105 to 108)

## DIRECT - SMITH (Gould)

<p style="text-align: right;">Page 109</p> <p>1 Q Were you ever made aware that the United 2 States Department of Education's civil rights -- 3 strike that.</p> <p>4 Were you ever made aware that the United 5 States' Department of Education Office of Civil 6 Rights was investigating Chadron State College for 7 alleged failures in Title IX obligations?</p> <p>8 A I was aware of that, yes.</p> <p>9 Q When did you become aware of that?</p> <p>10 A I don't recall when I was aware of that. 11 I know that we had to fill paperwork out for it.</p> <p>12 Q Who asked you to fill out paperwork?</p> <p>13 A I don't recall.</p> <p>14 Q Are student-athletes required to live in 15 the dorms their freshmen year?</p> <p>16 A Yes.</p> <p>17 Q And are transfer students also required to 18 live in the dorms their freshman year?</p> <p>19 A I don't know that answer. I don't know if 20 it's qualified by them being freshmen or what, so I 21 don't know the answer to that.</p> <p>22 Q Had you ever spoken to Fatima Larios' 23 parents at any point in time?</p> <p>24 A I met her father and uncle when she passed 25 and -- at her memorial service that we had for them.</p>	<p style="text-align: right;">Page 111</p> <p>1 CROSS-EXAMINATION 2 BY MR. JOHNSON:</p> <p>3 Q Mr. Smith, do you have, as we sit here 4 today and without reference to any documents, a 5 detailed and specific recollection of your 6 conversation with Coach Stack on November 3 of 2014?</p> <p>7 A I do not.</p> <p>8 Q Is it possible that things were said in 9 that meeting that you have lost recall of?</p> <p>10 A Yes.</p> <p>11 Q If there is a conflict between 12 documentation with respect to that meeting and your 13 present recall of that meeting, would it be your 14 testimony that the documentation is likely more 15 accurate than your recall?</p> <p>16 A I would say the documentation is more 17 likely.</p> <p>18 MR. JOHNSON: That's all I have.</p> <p>19 MR. GOULD: That's all I've got for you.</p> <p>20 MR. JOHNSON: We'll read and sign.</p> <p>21 (The deposition was concluded at 22 12:36 p.m.)</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 110</p> <p>1 Q Okay. Did you speak with them?</p> <p>2 A Just said hi and sorry for their loss. I 3 should qualify that. It wasn't the memorial service 4 that we had with the sit-down, it was a -- we did a 5 balloon thing out on the softball field, and they 6 were at that, and that's where I talked to them.</p> <p>7 Q Have you ever spoken to any of Fatima's 8 softball player teammates about Fatima Larios?</p> <p>9 A No.</p> <p>10 Q Do you know which dorm Fatima Larios was 11 living in in the fall of 2014 semester?</p> <p>12 A I'm assuming it was High Rise.</p> <p>13 Q And what makes you think it was High Rise?</p> <p>14 A That's where they found her, so --</p> <p>15 Q You never received -- strike that.</p> <p>16 You've never obtained a Title IX certification, have you?</p> <p>17 A I have not.</p> <p>18 Q And you never called campus security or the Chadron Police Department regarding any concerns reported to you about Fatima Larios; correct?</p> <p>19 A No.</p> <p>20 MR. GOULD: No further questions.</p> <p>21 MR. JOHNSON: I want to get you on the road. I have just a couple of questions.</p>	<p style="text-align: right;">Page 112</p> <p>1 J U R A T</p> <p>2</p> <p>3 I, JOEL SMITH, do hereby state under oath 4 that I have read the above and foregoing deposition 5 in its entirety and that the same is a full, true, 6 and correct transcription, with my noted corrections, 7 if any, of my testimony so given at said time and 8 place.</p> <p>9</p> <p>10 _____ (Deponent's Signature)</p> <p>11 _____ (Date)</p> <p>12</p> <p>13 STATE OF NEBRASKA ) 14 ) ss. 15 COUNTY OF DOUGLAS ) 16</p> <p>17 Subscribed and sworn to before me on this 18 day of _____, 2018.</p> <p>19</p> <p>20</p> <p>21</p> <p>22 _____ GENERAL NOTARY PUBLIC</p> <p>23</p> <p>24</p> <p>25</p>

28 (Pages 109 to 112)

Page 113

10 That the within and foregoing deposition  
11 was taken by me at the time and place herein  
12 specified and in accordance with the within  
13 stipulations, the reading and signing of the witness  
14 to his deposition having not been waived.

15           That I am not counsel, attorney or relative  
16          of either party or otherwise interested in the event  
17          of this suit.

18 IN TESTIMONY WHEREOF, I have placed my hand  
19 and notarial seal this 8th day of January, 2018.

---

**GENERAL NOTARY PUBLIC**

COST: \$

January 8, 2018

Mr. Thomas Johnson  
Attn: JOEL SMITH  
1500 Woodmen Tower  
1700 Farnam Street  
Omaha, NE 68102

Dear Mr. Smith:

You will recall on December 21, 2017, I took your deposition at 1500 Woodmen Tower, 1700 Farnam Street, Omaha, Nebraska dealing with the case of LISSETTE LARIOS ROOBAKHSH, as personal representative of the ESTATE OF FATIMA LISSETTE LARIOS and on behalf of next of kin, Plaintiffs v. Board of Trustees of the Nebraska State Colleges and Chadron State College, Defendants. Your signature on the deposition was not waived.

The minusccript of the transcript, which is an exact duplicate of the original, is ready for your review. I would appreciate it if you would read it, then sign the errata sheet and jurat page and return back to me in the enclosed envelope as soon as possible. You may keep the minuscrupt. Local practice allows a witness 30 days in which to read and sign the original and return same to the reporter.

15 As you read the minusccript, please note any  
16 corrections you might have on the correction sheet  
17 enclosed with the minuscscript giving the page number,  
line number, and the reason for the correction to be  
made as so indicated on the sheet.

18 After reading and noting any corrections on the  
19 sheet, please sign the jurat page and also the  
20 correction page. Please sign both pages in front of  
a Notary Public and then have the Notary sign on the  
proper line.

21 Thank you for your cooperation in this matter.

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1 IN THE UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEBRASKA  
3 LISSETTE LARIOS ROOBHAKSH, as )  
4 personal representative of the )  
5 ESTATE OF FATIMA LISSETTE LARIOS )  
6 and on behalf of next of kin, ) Case No.  
7 and ) 8:17-cv-00031-  
8 NELSON LARIOS, as next of kin ) JFB-CRZ  
9 Plaintiffs, )  
10 v. )  
11 BOARD OF TRUSTEES OF THE NEBRASKA )  
12 STATE COLLEGES )  
13 and ) CERTIFICATE  
14 CHADRON STATE COLLEGE, ) OF REPORTER  
15 Defendants. )  
16 \_\_\_\_\_ )

I, Rachel McMenamin, General Notary Public,  
do hereby certify that I served as the Court Reporter  
at the deposition of JOEL SMITH on December 21, 2017,  
at 1500 Woodmen Tower, 1700 Farnam Street, Omaha,  
Nebraska, in which the costs of reporting and  
transcribing the deposition were \$\_\_\_\_\_, and that  
such costs are to be paid by counsel for the  
plaintiffs.

I further certify that the original and copies were sent to: Original and 1 copy to Mr. Martin D. Gould; 1 copy to Mr. Thomas Johnson.

Dated this 8th day of January, 2018.  
Delivered:

Dated this 8th day of January, 2018.  
Delivered: \_\_\_\_\_

Page 116

NO.	NO.	CORRECTION	CORRECTION
5			
6	*	*	*
7	*	*	*
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9	*	*	*
10	*	*	*
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18  
19  
20 SIGNATURE OF WITNESS  
STATE OF NEBRASKA)  
21 ) ss  
COUNTY OF DOUGLAS)  
22 Subscribed and sworn to before me this  
day of \_\_\_\_\_, 2017.  
23  
24

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GENERAL NOTARY PUBLIC

## 1 DEPOSITION CORRECTIONS OF JOEL SMITH

2 CASE: LARIOS v. BOARD OF TRUSTEES OF THE NEBRASKA  
 STATE COLLEGES, ET AL.  
 3 Case No. 8:17-cv-00031-JFB-CRZ

PAGE NO.	LINE NO.	CORRECTION	REASON FOR CORRECTION
6	67*	I did Not	That is what I said
7	*	*	*
8	*	*	*
9	*	*	*
10	*	*	*
11	*	*	*
12	*	*	*
13	*	*	*
14	*	*	*
15	*	*	*
16	*	*	*
17	*	*	*

## 18 SIGNATURE OF WITNESS

19  
 20 STATE OF NEBRASKA)  
 ) ss  
 21 COUNTY OF DOUGLAS)

State of Nebraska - General Notary  
 KRISTOL CUMMINGS  
 My Commission Expires  
 January 11, 2022

22 Subscribed and sworn to before me this  
 26 day of January, 2018.

Kristol Cummings  
 GENERAL NOTARY PUBLIC

1

J U R A T

2

3 I, JOEL SMITH, do hereby state under oath  
4 that I have read the above and foregoing deposition  
5 in its entirety and that the same is a full, true,  
6 and correct transcription, with my noted corrections,  
7 if any, of my testimony so given at said time and  
8 place.

9

10

11

(Deponent's Signature)

12

January 26, 2018

13

(Date)

14

STATE OF NEBRASKA )  
15 ) ss.  
COUNTY OF DOUGLAS )

16

17

18

Subscribed and sworn to before me on this

26 day of January, 2018.

19

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21

22

23

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State of Nebraska – General Notary  
KRISTOL CUMMINGS  
My Commission Expires  
January 11, 2022

Kristol Cummings  
GENERAL NOTARY PUBLIC